THE HON'BLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.12913 OF 1998

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Dated: 10th August, 2005.

Between :

M.A.Ali

… Petitioner

and

1. The Presiding Officer, Industrial Tribunal-cum-Labour Court,

Warangal and another

… Respondents

ORDER:

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This writ petition is filed by the petitioner-Workman being aggrieved by the order made in M.P.No.15 of 1995, dated 24-01-1997, on the file of the Industrial Tribunal-cum-Labour Court, at Warangal.

2. There is no necessity of going into all the details. It is suffice to notice that the petitioner-Workman, on attaining the age of superannuation, retired from service of the second respondent-Management on 31-07-1994 as a Depot Clerk. When gratuity was not paid along with other retiral benefits, he filed the petition under Section 33-C(2) of the Industrial Disputes Act, 1947 (for short, 'the Act'), before the Industrial Tribunal-cum-Labour Court, Warangal, which was taken on file as M.P.No.15 of 1995. The Labour Court, after detailed consideration of the matter, though held that the petitioner-Workman is entitled for gratuity and P.F. amounts, which comes to Rs.60,495/- but directed the second respondent-Management to deduct an amount of Rs.29,827=56 ps towards the cost of missing items, namely,

mechanic jacks and wheel box spanners, and also permitted the petitioner-Workman to withdraw an amount of Rs.30,667=44 ps after deducting the cost of the missing items under the letter dated 26-11-1994 issued by the second respondent-Management.

3. It is the case of the petitioner-Workman that before coming to the conclusion that the petitioner-Workman has caused any loss to the second respondent-Management and before issuing the letter dated
26-11-1994, no enquiry of any sort was conducted by it and no explanation was called for. Therefore, it was not open for the Labour Court while deciding the matter under Section 33-C(2) of the Act to permit the second respondent-Management to deduct certain amounts without there being a decision on merits as to such deductions.

4. I am in full agreement with the submissions made by the learned Counsel for the petitioner-Workman that no amounts could be directed to be deducted by the Labour Court while deciding the matter under Section 33-C(2) of the Act. In view of the same, the order passed by the Labour Court in M.P.No.15 of 1995, dated 24-01-1997, is set aside insofar as it directing the second respondent-Management to deduct the costs of purported missing items of Rs.29,827=56 ps as arbitrary and illegal. The rest of the order passed by the Labour Court is confirmed.

5. In the result, the petitioner-Workman is entitled to the full gratuity amount of Rs.60,495/- (Rupees sixty thousand, four hundred and ninety five only). The writ petition is allowed to the extent indicated above. No order as to costs.

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C.V. RAMULU, J

10th August, 2005.

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